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B3
11. (Original) The container of claim 6, wherein the container is a wine bottle.

17. (Amended) A three-dimensional label for a container, comprising:
a raised ornamental portion extending away from a surface of the container;
a vacancy existing alone between said raised ornamental portion and said surface of the container; and
a portion substantially flush with the surface of the container.

18. (Amended) A three-dimensional label for a container, comprising:
a portion substantially flush with a surface of the container; and
a raised ornamental portion extending away from a surface of the container, wherein the ornamental portion depicts a flowing liquid, and further wherein only a vacancy exists between said raised ornamental portion and said surface of the container.

REMARKS

Claims 1-16 were pending in this application. Claims 12-16 have been withdrawn from consideration. Claim 7 has been previously canceled and claims 17 and 18 have previously been added. Thus, claims 1-6, 8-11, and 17-18 remain pending in this application. Reconsideration and allowance in view of the amendments and the following remarks are respectfully requested.

Claims 1-6, 8-11 and 17 are again rejected under 35 U.S.C. §102(b) as being anticipated by Deal (US 5,857,275). Also, claims 18 was rejected under 35 U.S.C. §102(b) as being anticipated by Mezquita (US 3,890,449).

The Examiner alleges, at the top of page 3 in the Final Office Action, that "Deal discloses a raised label with a portion away from the container with a *vacancy* between the label and the container. The *vacancy* between the two however is filled by *optional* beads for decoration. If the *optional* beads are then removed the *vacancy* would be clearly seen between the label and the container. Further figure 3 clearly shows a *vacancy* even when the *optional* beads are applied (emphasis added).

Applicant respectfully strongly asserts that the references, taken alone or in combination, fail to teach or suggest each and every feature of the claimed invention as required under §102(b). Specifically, Deal does not teach, or suggest, "raised portion extending away from a surface of the container having **only a vacancy** between the label and the surface of the container," as disclosed in independent claim 1. Further, Deal does not teach, or suggest "three-dimensional design, having **only a vacancy** formed between the three-dimensional design of the label and the surface of the container," as disclosed in independent claim 6. Finally, Deal does not teach, or suggest "a **vacancy existing alone** between said raised ornamental portion and said surface of the container," as disclosed in independent claim 17. To the contrary, several of the allegations the Examiner makes in the Final Office Action are clearly not taught, disclosed, or suggested in Deal.

First, the raised labels disclosed in Deal are clearly formed by the solid beads 22. There are simply no vacancies taught, or suggested, in Deal. As to the allegation that vacancies are shown in Figure 3 of Deal, none exist that go to forming a raised label. The tiny space between the bottle surface 10 and the back side of the solid bead 22 in Figure 3 are *de minimis*. The size of this tiny space, on Figure 3, is smaller than the thickness of the label 20. Clearly, this space in

Deal's Figure 3, that is alleged to be equivalent of the vacancies claimed in the present invention, is so small that it alone could not even be felt, and distinguished, by a human hand so as to form a raised portion on a label.

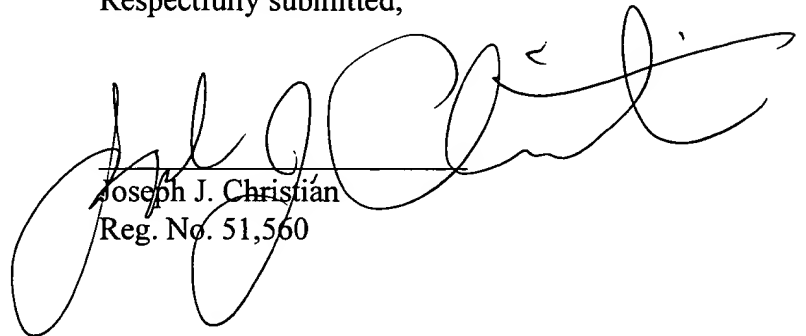
Second, the Examiner alleges that the solid beads 22 in Deal are "optional". There is no suggestion or teaching whatsoever in Deal for this allegation. Throughout the specification, figures, and claims, the solid beads 22 are *mandatory*. By way of example, all of the independent claims in Deal include the disclosure of "beads" or "solid beads". The Examiner further alleges that these optional beads can then be removed after forming a raised label (see page 3). Again, the Applicant must respectfully, but strongly, disagree and argue that there is no suggestion in Deal that this subsequent removal can be done. In fact, all of the figures clearly show raised labels wherein the solid beads 22 and raised portions 24 do *not* extend to the edges of the label 18. Thus, with this configuration, it is not clear how one could readily remove such solid beads 22 if they do not extend and reveal, or expose, themselves to, or beyond, an edge of the label 18. Clearly, the Examiner is engaging in an improper hindsight analysis. Applicant submits that independent claims 1, 6 and 17, and dependent claims 2-5, 8-11, which depend therefrom are not anticipated by Deal and therefore the rejection under Deal should be withdrawn.

The Examiner alleges that Mezquita anticipates independent claim 18. Applicant respectfully traverses the rejection in that Mezquita does not teach, or suggest, every feature of the claimed invention as required under §102(b). Specifically, Mezquita does not teach, or suggest, "wherein **only a vacancy** exists between said raised ornamental portion and said surface of the container," as disclosed in independent claim 18. To the contrary, Mezquita only discloses

an ornamentation that resides immediately adjacent to the container surface, without any vacancies there between. Applicant submits that independent claims 18 is not anticipated by Mezquita and therefore the rejection under Mezquita should be withdrawn.

Accordingly, Applicant respectfully requests withdrawal of all rejections, and submits that the entire application is in condition for allowance. However, should the Examiner believe anything further is necessary in order to place the application in better condition for allowance, or if the Examiner believes that a telephone interview would be advantageous to resolve the issues presented, the Examiner is invited to contact the Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,



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APPENDIX

IN THE SPECIFICATION:

Please replace the paragraph beginning with the phrase "The present invention provides" at page 3, line 19, with the following new paragraph:

The present invention provides a three-dimensional advertising label 10 on a container 12, similar to the label 10 illustrated in Figs. 1A and 1B. The container 12 may be a beverage container, such as a wine bottle, as shown in this example, a soda container, a juice container, a container for food products, a container for health and beauty items such as a shampoo container, or a container for pharmaceuticals and so on. As illustrated more clearly in Fig. 3, which shows a cross-sectional view of the label 10 and container 12, the label 10 may comprise a flat portion 14, or a portion laying flush with the surface of the container 12, and a raised or three-dimensional portion 16, or a portion extending outward from the surface of the container 12. Located between the raised or three-dimensional portion 16 and the surface of the container 12 is a vacancy, or space 20.

Please replace the paragraph beginning with the phrase "The label 10 is then trimmed," at page 6, line 24, with the following new paragraph:

The label 10 is then trimmed, as needed, using a die-cut process, routing process, or other similarly used process. Thereafter, the label 10 is applied to the container 12, either by hand, using an automated device, or other similarly used application process. Once applied to the container 12, a vacancy 20, or space, is formed between the three-dimensional portion 16 and the surface of the container 12.

IN THE CLAIMS:

Please amend the claims as follows:

1. A three-dimensional label for a container, comprising:
a raised portion extending away from a surface of the container having only a vacancy between the label and the surface of the container; and
an adhesive material on a surface of the label attaching the label to the surface of the container.
6. A container having a label affixed to a surface of the container, wherein the label includes a three-dimensional design, having only a vacancy formed between the three-dimensional design of the label and the surface of the container.
17. A three-dimensional label for a container, comprising:
a raised ornamental portion extending away from a surface of the container;
a vacancy existing alone between said raised ornamental portion and said surface of the container; and
a portion substantially flush with the surface of the container.
18. A three-dimensional label for a container, comprising:
a portion substantially flush with a surface of the container; and
a raised ornamental portion extending away from a surface of the container, wherein the

ornamental portion depicts a flowing liquid, and further wherein only a vacancy exists between
said raised ornamental portion and said surface of the container.